383, extricated itself by formulating the rule that evidence unlawfully secured will not be admitted if application be made before its return, and that the rule announced in the *Adams* case is applicable only when the objection is made for the first time upon the trial; and this theory has been followed to its logical conclusion in *Silverstone Lumber Co.* v. *United States,* 251 U. S. 385. Accord, *People* v. *Marxhausen,* 204 Mich. 559. In a well-considered case, *Williams* v. *State,* 100 Ga. 511, Lumpkin, J., speaking for the court, promulgated the rule that the admissibility of evidence was determined independently of the method by which it was obtained, but evidently suffered a change of heart when *Evans* v. *State,* 106 Ga. 519, involving admissibility of evidence unlawfully obtained by search of person without warrant, was before him, after a futile attempt at reconciliation with the former case; and in *Underwood* v. *State,* 13 Ga. App. 206, the appellate court followed *Evans* v. *State, supra.* The rule declaring illegally obtained evidence inadmissible, having in its favor the salutary effect of discouraging unlawful seizures, commends itself to the writer, but see 9 ILL. L. REV. 43 for the contrary view.

TRUSTS—SAVINGS BANK DEPOSITS IN TRUST.—A deposit in a savings bank was made in the name of the depositor "as trustee" for a named beneficiary. The donor retained possession of the bank book until her death and no one was informed of the trust during her lifetime. In an action by the beneficiaries to enforce the trust, *held* (one justice dissenting), when not refuted by a contrary intent a deposit in trust raises a presumption of trust with which retention of the bank book is not inconsistent. The trust originates with the donor's act and notice to the beneficiary is not necessary. *Cazallis et al.* v. *Ingraham et al.* (Me., 1920), 110 Atl. 359.

In order to create a trust in personalty, the owner must have the requisite intent and there must be a declaration of such intent. Where money is deposited in a bank in trust for a third person, the intent may be shown in various ways. It may be by notice to the donee, or sometimes to a third person, by delivery of the bank book, by declarations to the donee or third parties, or by other circumstances connected with the deposit or the depositor's relations to the donee. *Alger* v. *North End Savings Bank,* 146 Mass. 418; *Matter of Holligan,* 82 Misc. (N. Y.) 30; *Conn. River Savings Bank* v. *Albee's Estate,* 64 Vt. 571; *Matter of Davis,* 119 App. Div. (N. Y.) 35; *Bath Savings Bank* v. *Hathorn,* 88 Me. 122; *Meriga* v. *McGonigle,* 205 Pa. 321; *Robinson* v. *Appleby,* 168 App. Div. (N. Y.) 509. But other circumstances may show equally well that there was no intent to make a gift. The deposit may be to evade taxation laws or legacy duties, *Conn. River Savings Bank* v. *Albee's Estate, supra;* to evade the statute of wills, *Nutt* v. *Morse,* 142 Mass. 1; to evade laws limiting the amount of savings deposits, *Brabrook* v. *Boston Five-Cent Savings Bank,* 104 Mass. 228; or to take advantage of a higher interest rate on small deposits, *Weber* v. *Weber,* 9 Daly (N. Y.) 211. In New York it is declared that a mere deposit in a savings bank by one person of his own money, in his own name as trustee for another, creates only a tentative trust which is revocable at will until the depositor dies or completes the

gift in his lifetime by some unequivocal act or declaration, such as delivery of the pass book or notice to the beneficiary. *Matter of Totten,* 179 N. Y. 112; *Stockert* v. *Dry Dock Sav. Inst.,* 155 N. Y. App. Div. 123. In Massachusetts it appears there must be notice to the benelciary to perfect the trust, even though a clear intent may be expressed in other ways. *Clark* v. *Clark,* 108 Mass. 522; *Cleveland* v. *Hampden Sav. Bank,* 182 Mass. 110. As is pointed out in the case of *Walso* v. *Latterner,* 140 Minn. 455 (in which it is said that the trust is not complete while the donor retains possession of the bank book), the conflict between the New York and Massachusetts decisions is not over the validity of such a trust, but wholly over what is sufficient evidence to make a question for the jury on the issue of the intention of the depositor In New Jersey the doctrine of *Matter of Totten, supra,* is condemned as violating the statute of wills. *Nichlas* v. *Parker,* 71 N. J. Eq. 777. The rule of the Maine court is not in accord with the New York, Massachusetts or New Jersey rules, and may be stated as follows: a deposit in a bank in trust for another raises a presumption that a trust was intended, and when not refuted by the showing of a contrary intent creates a trust which is completed and irrevocable. Retention of the pass book is not inconsistent with such intent, neither are subsequent withdrawals inconsistent in the absence of evidence showing the disposition made of same. This rule would seem to be an extension of the doctrines previously announced by the Maine Supreme Court. *Barker* v. *Frye,* 75 Me. 29; *Bickford* v. *Mattocks,* 95 Me. 547; *Savings Bank* v. *Fogg,* 113 Me. 249; *Bath Savings Bank* v. *Hathorn,* 88 Me. 122. See article by Bogert on "Creation of Trusts by Means of Bank Deposits," 1 CORNELL L. QUAR. 159. See also SCOTT'S CASES ON TRUSTS, p. 224, note.